pore was issued. Thus, the question of running away from the jurisdiction of the Court did not arise. The plaintiffs, therefore, failed to show a *prima facie* case against the defendants in respect of the second requirement of section 19 of the Act.

I shall now turn to the second ground in support of the defendants' application, namely, that the plaintiffs had not fully disclosed material facts and had made inaccurate statements in their *ex-parte* application. In *Datuk Abu Mansor bin Mohamed Nasir* v. *Bank Kerjasama Rakyat Malaysian Bhd. & Anor.*[2], the Federal Court decided on an appeal arising from an *ex-parte* order of attachment before judgment under section 19(1)(c) of the Debtors Ordinance. Azmi J., as he then was, in delivering the judgment of the Court, said,

"But this 1976 transfer, which could have been discovered from the Land Office Registry, was not disclosed to the learned judge when the *ex-parte* order was made, and as such he could not have exercised his discretion in matters unknown to him... "

Similarly, in *Hari Singh* v. *Sundarammal*[3], MacIntyre J. said,

"It is also settled law that on an *ex-parte* application, the person making the application should show the utmost good faith by not holding back any vital information touching upon matters pertinent to the application...

The failure to mention that fact when the application for an *ex-parte* order was made is alone sufficient reason for me to discharge the order... "

In the instant case, the plaintiffs had failed to disclose the true facts by making inaccurate statements in the affidavit (enclosure 2) in support of the *ex-parte* application. The plaintiffs alleged, in paragraph 9(d) of that affidavit, that the defendants' company had a paid-up capital of $2.00. The defendants in their affidavit (enclosure 11) stated that the paid-up capital of the defendant company was $200,000.00. The plaintiffs in their affidavit in reply (enclosure 15, paragraph 12) changed their story and stated that the authorised capital of the defendants' company was $25,000.00. The failure of the plaintiffs to disclose the correct information in their *ex-parte* application is a good ground to discharge the attachment order.

For the reasons stated above, I order that:

(1) the order made by me on April 26, 1983 that the attachment before judgment be given against the defendants' property, namely Bank Account No. 0-110355-017 at Citi Bank, Kuala Lumpur for a sum not exceeding $368,044.47 be set aside;

(2) a date be fixed for the assessment of damages suffered by the defendants as a result of the attachment; and

(3) the costs of this application be paid by the plaintiffs in any event.

Order accordingly.

Solicitors: *Joseph Tan & Tang; Tunku Zuhri; Manan & Abdullah.*

RE MUTANG TAGAL

[O.C.J. (Wan Hamzah J.) July 13, 1984]
[Kuala Lumpur — Petition for Admission as an Advocate & Solicitor No. 113 of 1983]

Legal Profession — Advocate and solicitor — Petition for admission as — Scope of Legal Profession Act, 1976, s. 13(1) — Legal Profession Act, 1976, ss. 3 & 13(1).

The words "advocate and solicitor" in section 13(1) of the Legal Profession Act 1976 include an advocate called to the Sarawak Bar under the Advocates Ordinance of Sarawak because such interpretation would facilitate the intention of the legislature to treat Sabah, Sarawak and West Malaysia as one country for the purpose of pupillage.

[Editorial Note: An appeal to the Federal Court has been allowed.]

Case referred to:

(1) *Samantha Murthi* v. *Attorney-General* [1982] 2 M.L.J. 126.

PETITION.

Lee Beng Choon for the petitioner.
Param Cumarasamy for Bar Council.
Dulip Singh for the Bar Committee.
Miss Mary Lim for the Attorney-General.

Cur. Adv. Vult.

Wan Hamzah J.: Mutang Tagal petitions for admission to the Bar in West Malaysia under the Legal Profession Act 1976. He has not been a pupil of an advocate and solicitor practising in West Malaysia, but he attended the chambers of Mr. Peter Chin Fah Kui at Miri, Sarawak for a period of twelve months from February 23, 1981 to February 23, 1982. Mr. Peter Chin Fah Kui was not an advocate and solicitor called to the Bar in West Malaysia under the Advocates and Solicitors Ordinance 1947 of West Malaysia or under the Legal Profession Act 1976, but he was an advocate called to the Sarawak Bar under the Advocates Ordinance of Sarawak before the Act came into operation. The Bar Council of West Malaysia objects to this petition and contends that the Petitioner has not complied with section 13 of the Act in that he has not served the required period of pupillage with an advocate and solicitor on the ground that Mr. Peter Chin Fah Kui was not an advocate and solicitor under section 13 of the Act,

and by virtue of being an advocate under the Advocates Ordinance of Sarawak he did not thereby become an advocate and solicitor under section 13 of the Act.

The following are the relevant provisions of the Act:

Section 13(1). Subject to subsection (4) a pupil shall serve his period of pupillage with an advocate and solicitor who is and has been in active practice in Malaysia for a total period of not less than seven years immediately preceding the date of commencement of his pupillage.

Section 3. In this Act unless the context otherwise requires —

"advocate and solicitor", and "solicitor" where the context requires means an advocate and solicitor of the High Court admitted and enrolled under this Act or under any written law prior to the coming into operation of this Act.

In the case of *Samantha Murthi* v. *Attorney-General*[1] the following passage appears in the judgment of the Federal Court:

"... after Sarawak's entry into Malaysia, section 4(1) of the Advocates Ordinance of Sarawak — as well as section 4(1) of the Advocates Ordinance (Cap. 2) of Sabah — was amended by the addition of a new paragraph (cc) to provide that a person contemplating admission to the Sarawak — or Sabah — Bar may read in the Chambers of an advocate who has been practising not only in Sarawak or Sabah, but anywhere in Malaysia, including Malaya. The two amendments were made by the modification of Laws (Advocates) (Borneo States) Order, 1965, published as L.N. 435 of 1965. It is clear that the intention of the legislature when making these two amendments is to treat Sabah and Sarawak and Malaya as one country for the purpose of pupillage, while maintaining the separateness of the Bars of the three areas."

I would like to repeat the opinion of the Federal Court that the intention of the legislature is to treat Sabah, Sarawak and West Malaysia as one country for the purpose of pupillage. The Federal Court went on to say: "In our judgment the legislature must be regarded as manifesting the same intention when choosing the word Malaysia in section 13(1) of the Legal Profession Act". That, in my opinion, is as good as saying that the legislature must be regarded as manifesting the same intention when enacting section 13(1) of the Legal Profession Act. Therefore I feel bound by that opinion of the Federal Court to hold that the words "advocate and solicitor" in section 13(1) of the Act include an advocate called to the Sarawak Bar under the Advocates Ordinance of Sarawak because such interpretation would facilitate the intention of the legislature to treat Sabah, Sarawak and West Malaysia as one country for the purpose of pupillage.

The Federal Court went on to state as follows in that case:

"Moreover, the Legal Profession Act itself envisages one single bar for the whole of Malaysia, sections 2 and 41. It is only a matter of time before the three separate Bars become merged into a single Bar. In the interim period, the courts should wherever possible construe the Act purposively as will 'promote the general legislative purpose' underlying the provisions, the purpose of Parliament being to unite the three Bars."

In my opinion the instant case is a case in which it is possible and proper to construe the Act purposively so.

The petition is granted.

Order accordingly.

Solicitors: *Lee Beng Choon & Co.; Shook Lin & Bok; Dulip Singh & Co.*